
By: **Delegates Howard, Elmore, James, and G. Clagett**
Introduced and read first time: March 3, 2003
Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Transportation Authority - Transportation Public-Private**
3 **Partnership Agreements**

4 FOR the purpose of establishing a Transportation Public-Private Partnership
5 Program in the Authority to develop partnership agreements between private
6 entities and the Maryland Transportation Authority or the Department of
7 Transportation concerning acquisition, construction, or improvement of
8 transportation facilities and maintenance and services in connection with new,
9 expanded, or purchased transportation facilities; requiring that a transportation
10 facility that is the subject of a certain partnership agreement be consistent with,
11 and eventually incorporated into, the Department's Consolidated
12 Transportation Program or the Maryland Transportation Plan, as applicable;
13 requiring a certain partnership agreement to meet certain conditions; requiring
14 the Authority to establish certain procedures for the submittal, evaluation, and
15 approval of solicited and unsolicited proposals to enter into certain agreements;
16 requiring the Authority to adopt regulations; stating the public policy objectives
17 of the General Assembly regarding transportation facilities; defining a certain
18 term; and generally relating to partnership agreements concerning
19 transportation facilities.

20 BY adding to
21 Article - Transportation
22 Section 4-205.1
23 Annotated Code of Maryland
24 (2001 Replacement Volume and 2002 Supplement)

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
26 MARYLAND, That the Laws of Maryland read as follows:

27 **Article - Transportation**

28 4-205.1.

29 (A) IN THIS SECTION, "TRANSPORTATION FACILITY" HAS THE MEANING
30 STATED IN § 3-101(L) OF THIS ARTICLE.

1 (B) THE GENERAL ASSEMBLY FINDS THAT:

2 (1) THERE IS A PUBLIC NEED FOR TIMELY ACQUISITION OR
3 CONSTRUCTION OF AND IMPROVEMENTS TO TRANSPORTATION FACILITIES IN THE
4 STATE THAT ARE COMPATIBLE WITH STATE AND LOCAL TRANSPORTATION PLANS;

5 (2) THE PUBLIC NEED MAY NOT BE WHOLLY SATISFIED BY EXISTING
6 WAYS IN WHICH TRANSPORTATION FACILITIES ARE ACQUIRED, CONSTRUCTED, OR
7 IMPROVED; AND

8 (3) AUTHORIZING NONGOVERNMENTAL ENTITIES TO ACQUIRE,
9 CONSTRUCT, IMPROVE, MAINTAIN, OR OPERATE ONE OR MORE TRANSPORTATION
10 FACILITIES MAY RESULT IN THE AVAILABILITY OF IMPROVED TRANSPORTATION
11 FACILITIES TO THE PUBLIC IN A MORE TIMELY OR LESS COSTLY FASHION, THEREBY
12 SERVING THE PUBLIC SAFETY AND WELFARE.

13 (C) THERE IS A TRANSPORTATION PUBLIC-PRIVATE PARTNERSHIP PROGRAM
14 IN THE AUTHORITY.

15 (D) THE PURPOSE OF THE PROGRAM IS TO DEVELOP PARTNERSHIP
16 AGREEMENTS BETWEEN PRIVATE ENTITIES AND THE AUTHORITY OR THE
17 DEPARTMENT CONCERNING:

18 (1) ACQUISITION, CONSTRUCTION, OR IMPROVEMENT OF
19 TRANSPORTATION FACILITIES; AND

20 (2) MAINTENANCE AND SERVICES IN CONNECTION WITH NEW,
21 EXPANDED, OR PURCHASED TRANSPORTATION FACILITIES.

22 (E) A TRANSPORTATION FACILITY THAT IS THE SUBJECT OF A PARTNERSHIP
23 AGREEMENT UNDER THIS SECTION, INCLUDING INTERCONNECTION WITH EXISTING
24 TRANSPORTATION FACILITIES AND OPERATIONS OF THE PROPOSED
25 TRANSPORTATION FACILITIES SHALL BE CONSISTENT WITH, AND EVENTUALLY
26 INCORPORATED INTO, THE DEPARTMENT'S CONSOLIDATED TRANSPORTATION
27 PROGRAM OR THE MARYLAND TRANSPORTATION PLAN, AS APPLICABLE.

28 (F) A PARTNERSHIP AGREEMENT ENTERED INTO UNDER THIS SECTION
29 SHALL:

30 (1) PROHIBIT A PRIVATE ENTITY FROM IMPOSING TOLLS OR USER FEES
31 ON AN EXISTING INTERSTATE HIGHWAY OR A FREE HIGHWAY, BRIDGE, TUNNEL, OR
32 OVERPASS UNLESS THE HIGHWAY, BRIDGE, TUNNEL, OR OVERPASS IS
33 RECONSTRUCTED TO PROVIDE FOR INCREASED CAPACITY;

34 (2) PROVIDE FOR PAYMENT OF THE PREVAILING WAGE RATE UNDER
35 TITLE 17, SUBTITLE 2 OF THE STATE FINANCE AND PROCUREMENT ARTICLE; AND

36 (3) COMPLY WITH ALL APPLICABLE FEDERAL, STATE, AND LOCAL LAWS
37 AND REGULATIONS.

1 (G) (1) THE AUTHORITY SHALL ESTABLISH PROCEDURES FOR THE
2 SUBMITTAL, EVALUATION, AND APPROVAL OF SOLICITED AND UNSOLICITED
3 PROPOSALS TO ENTER INTO AGREEMENTS UNDER THIS SECTION.

4 (2) PROCEDURES ESTABLISHED UNDER THIS SUBSECTION SHALL:

5 (I) PROHIBIT THE SUBMITTAL OF AN UNSOLICITED PROPOSAL
6 CONCERNING A HIGHWAY FACILITY THAT IS NOT PART OF A PROPOSED PROJECT IN
7 THE CONSOLIDATED TRANSPORTATION PLAN; AND

8 (II) INCLUDE PROVISIONS FOR PARTICIPATION BY CERTIFIED
9 MINORITY BUSINESS ENTERPRISES, DEFINED IN § 14-301 OF THE STATE FINANCE
10 AND PROCUREMENT ARTICLE.

11 (H) THE AUTHORITY SHALL ADOPT REGULATIONS TO IMPLEMENT THIS
12 SECTION.

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 October 1, 2003.